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REC'D JUN - 6 2008

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CLERK'S FILE  
CR07-2012 COPY

UNITED STATES OF AMERICA,

Plaintiff,

**DOCKETED**

No. 07 CR 318

07 CR 320

MAY 30 2008

vs.

DAVID ANTHONY DOWNING, AZAR BEREND  
NIEKAMP,

) Chicago, Illinois

) May 30, 2007

Defendants.

) 3:53 P.M.

TRANSCRIPT OF PROCEEDINGS - Hearing  
BEFORE THE HONORABLE MARTIN C. ASHMAN, Magistrate Judge

APPEARANCES:

For the Government:

HON. PATRICK J. FITZGERALD  
219 South Dearborn Street  
Chicago, Illinois 60604  
BY: MR. BENJAMIN F. LANGNER

For the Defendants:

THOMAS M. BREEN AND ASSOCIATES  
53 West Jackson Boulevard  
Suite 1460  
Chicago, Illinois 60604  
BY: MR. TODD S. PUGH

For Defendant Niekamp:

MR. DANIEL ELI RADAKOVICH  
900 West Jackson Boulevard  
Suite 5 East  
Chicago, Illinois 60607

**FILED**  
MAY 29 2008 RC

PAMELA S. WARREN, CSR, RPR  
Official Court Reporter  
219 South Dearborn Street  
Room 1928  
Chicago, Illinois 60604  
(312) 294-8907

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

NOTE: Please notify of correct speaker identification.

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1 (Proceedings held in open court:)

2 THE CLERK: 07 CR 318, USA versus Downing; and 07 CR  
3 320, USA versus Niekamp, preliminary examination hearing,  
4 identity hearing, and detention hearing.

5 MR. LANGNER: Good afternoon, your Honor. Ben Langner  
6 on behalf of the government.

7 MR. RADAKOVICH: Good afternoon. Daniel Radakovich on  
8 behalf of Azar Niekamp.

9 MR. PUGH: Good afternoon, Judge. Todd Pugh, P-u-g-h,  
10 from the Office of Thomas Breen, B-r-e-e-n, on behalf of  
11 defendant Downing.

12 THE COURT: All right. First identity. Are we going  
13 to have identity hearings?

14 MR. RADAKOVICH: We stipulate to that, your Honor, on  
15 behalf of Mr. Niekamp.

16 THE COURT: All right.

17 MR. PUGH: As do we on behalf of Mr. Downing, your  
18 Honor.

19 THE COURT: All right. The identity hearing is waived  
20 therefore by each of the defendants.

21 Preliminary examinations. Both sides ready?

22 MR. LANGNER: Your Honor, it is my understanding from  
23 counsel that they are going to waive probable cause without  
24 prejudice at this point in time.

25 MR. RADAKOVICH: That would be our position if the

1 Court will accept it.

2 MR. PUGH: That is correct, your Honor.

3 THE COURT: All right. Preliminary examination having  
4 been waived, each defendant is remanded to the district court  
5 for further proceedings.

6 All right.

7 MR. RADAKOVICH: Waived without prejudice, your Honor?

8 THE COURT: Without prejudice.

9 MR. RADAKOVICH: Thank you.

10 THE COURT: Detention.

11 MR. LANGNER: Again, your Honor, it is my  
12 understanding that both defendants are going to waive detention  
13 without prejudice to raise the issue in Iowa. This is a  
14 removal to Iowa.

15 MR. RADAKOVICH: Judge, that is correct. We have  
16 nothing to offer the Court. Right now we don't ask to rule on  
17 the merits. We would ask the Court -- we'll waive it without  
18 prejudice.

19 MR. PUGH: That's our position.

20 THE COURT: All right. Detention having been waived  
21 without prejudice, the order is that the defendants be in  
22 detention while being removed to -- what was it, the Northern  
23 District of Iowa?

24 MR. RADAKOVICH: Yes, sir.

25 MR. LANGNER: That's correct, your Honor.

1 THE COURT: All right. All that is without prejudice  
2 to their renewing that motion once they get to Iowa.

3 MR. RADAKOVICH: Thank you, your Honor.

4 MR. LANGNER: Thank you, your Honor.

5 MR. PUGH: Thanks for your time.

6 THE COURT: All right.

7 (Which concluded the proceedings in the above-entitled  
8 matter.)  
9

10 C E R T I F I C A T E  
11

12 I hereby certify that the foregoing is a transcript of  
13 proceedings before the Honorable Martin C. Ashman on May 30,  
14 2007.

15 DATED: November 19, 2007  
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